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ARE YOU A BUSINESS OWNER?

CAPITAL ACQUISITIONS TAX FOR BUSINESS OWNERS

Are you planning to leave your business to your family on your death?

If so, you need to make sure the real value of this asset is not reduced by Inheritance Tax.

Here we are focussing on you as a business owner, and have set out the conditions which you need to be aware of when looking at tax efficient succession planning for your business assets.

BUSINESS RELIEF – can provide a reduction of 90% in the taxable value of certain businesses or private companies, where both the business and the beneficiary meet certain qualifying conditions.

POINTS TO CONSIDER - HOW CAN YOU REDUCE YOUR CHILDREN'S TAX BILL?

QUESTIONS TO ASK YOURSELF AND YOUR CHILDREN

- What type of business is it? Will your business assets qualify for the relief?
- How long have you owned the business assets?
- Are there any assets in the business that will not qualify for the relief?
- Will your children keep the business?
- Will your children actually control the business after your death?

Will your children be able to avail of business relief?

THE FOLLOWING CONDITIONS MUST BE MET IN ORDER FOR BUSINESS RELIEF TO APPLY:

DISPONER:

The disponer, you, must have owned the property for a period of 2 years where you are passing it on your death.

COMPANY:

The relief can only be availed of on "relevant business property"; this includes unquoted shares and securities of Irish incorporated companies subject to certain conditions.

The company's business must not consist wholly or mainly of any of the following excluded activities - dealing in currencies, securities, stocks or shares, land or buildings, or making or holding of investments.

BENEFICIARY:

For the relief to apply each of your beneficiaries must meet one of the following ownership/control tests:

i) the shares themselves or together with other shares in the company held in the absolute beneficial ownership of the beneficiary, give the beneficiary control of 25% of the voting power over all matters relating to the company,
or

ii) the beneficiary controls the company or the company is controlled by the beneficiary and his relatives,
or

iii) the beneficiary holds at least 10% of the issued capital of the company and has worked full time in the company for 5 years prior to the inheritance.

BUSINESS RELIEF - UNINCORPORATED BUSINESS:

Relevant business property also includes property consisting of a business (Sole trader) or an interest in a business (share in a partnership). As stated above a business which is wholly or mainly concerned with dealing in land, shares, securities or currencies or the making or holding of investments is excluded.

CLAWBACK OF RELIEF:

The entire relief can be clawed back, if within 6 years of the inheritance of business property:

- the business ceases to qualify,

or

- the property is sold or compulsory acquired and not replaced within one year with other business property.

As already stated, the relief will only apply to 'qualifying business assets'. In the case of a partnership or sole trader, that is assets which are used in the course of a qualifying business activity.

Where the value of a business includes some exempted assets, relief will be allowed on the value of the qualifying business assets only.

WILL YOUR CHILDREN BE ABLE TO AVAIL OF BUSINESS RELIEF?

If tax is not paid by the relevant payment dates interest will be charged. Unpaid tax attracts interest which is not tax deductible.

Therefore if you make no advance provision for your children's Inheritance Tax liability they may have to either:

- **Sell part of their inheritance,**
  or
- **Borrow money to pay Inheritance Tax.**

IF YOU THINK THEY WILL STILL HAVE A LIABILITY TO INHERITANCE TAX, THERE MAY BE A SOLUTION!

THE SOLUTION

MAKE ADVANCE PROVISION :

The solution could be for you to take out a Revenue approved life insurance plan, available from Irish Life, which could provide a lump sum on your death to pay any Inheritance Tax arising, in a tax efficient manner. This assumes that you are accepted, keep up payments, and that certain qualifying conditions are met throughout the term of the plan.

The benefit of using a 'qualifying' life assurance protection plan to fund for the payment of Inheritance Tax is that, as long as certain conditions are met, the proceeds of the policy when used to pay your beneficiaries' Inheritance Tax bill, will not increase their Inheritance Tax liability.

Whereas, if you leave them money to pay the Inheritance Tax bill in your deposit account, this will be seen by Revenue as an additional inheritance and they could lose 33% of the amount in the deposit account.

If this is an area which affects you
please talk to your Financial Broker or Adviser for further details of Irish Life's Life Long Cover Inheritance Tax Plan. However, we recommend that you also seek professional legal and tax advice.

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This is an outline of the current tax and legal issues that may need to be considered when you are looking at the subject of Inheritance Tax planning and it is based on an interpretation of current legislation and Revenue practice (January 2016). It is recommended that you seek professional legal and tax advice to ensure that any arrangement you decide to put in place is appropriate to your individual and business circumstances.

Whilst every care has been taken to ensure that the information in this guide is accurate, Irish Life Assurance plc does not accept responsibility for errors contained in this document. This Guide does not constitute tax or estate planning advice and has not been prepared based on the financial needs or objectives of any particular person, and does not take account of the specific needs or circumstances of any person.

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